

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

DUNKIN' DONUTS FRANCHISED
RESTAURANTS LLC, *et al.*,

Plaintiffs,

v.

JUL 2 2008

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CHAMBERS OF
RICHARD J. HOLWELL

C.A. No. 1:07-cv-07218-RJH

CHELSEA DB ASSOCIATES, INC., *et al.*,

Defendants.

[PROPOSED] SCHEDULING ORDER

A. Description of Case

1. Attorneys for the parties:

For Plaintiffs Dunkin' Donuts Franchised Restaurants LLC, *et al.*:

Robert L. Zisk, Esq. (RZ 1275) (lead trial counsel)
Jeffrey L. Karlin, Esq. (JK 7381)
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For Defendants Chelsea DB Associates LLC

Neil A. Miller, Esq. (NM 9078) (lead trial counsel)
Louis Algios, Esq.

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 (516)-512-0200

2. Basis for federal jurisdiction:

3. Brief description of claims and counterclaims: This is an action for breach of contract, trademark infringement, trade dress infringement, and unfair competition arising from Plaintiffs Dunkin' Donuts Franchised Restaurants LLC and Baskin-Robbins Franchising LLC termination of the Defendants' Franchise Agreements, Leases and Store Development Agreements. The suit seeks enforcement of the termination of these contracts, including an order preventing Defendants from using Dunkin' Donuts' and Baskin-Robbins' trademarks. Defendants have filed counterclaims challenging the bases for the terminations.

4. Major factual and legal issues in the case:

- a. Whether Defendants breached their Franchise Agreements?
- b. Whether Plaintiffs' terminations of the Defendants' Franchise Agreements, Leases and Store Development Agreements should be enforced?
- c. Whether Defendants' continued operation of their franchises after the issuance of the Notice to Termination constitutes violations of the Lanham Act, 15 U.S.C. § 1111, *et seq.*, related to trademark infringement, unfair competition and trade dress infringement?

5. Relief sought:

- a. Plaintiffs seek a declaratory judgment order stating that Defendants' conduct violated the terms of the Franchise Agreement and constitutes good cause for terminating the Franchise Agreements and injunctive order ratifying and enforcing the termination of the Franchise Agreements, a lease they are a party to and an SDA as of the effective date of the Notice of Default and Termination. Plaintiffs also seek an injunctive order directing Defendants to comply with their post-termination obligations under any contract with Plaintiffs. The Complaint further asks for an award of damages incurred by Plaintiffs as a result of the breaches of the Franchise Agreements and trademark infringement laws. Plaintiffs also seek to enjoin Defendants from infringing upon Dunkin's trademarks, trade dress, and trade names and from otherwise engaging in unfair competition with Plaintiffs. Finally, Plaintiffs their costs and attorneys' fees incurred in connection with this action pursuant to the Franchise Agreements and the Lanham Act.
- b. Defendants' counterclaims seek a declaration that the Franchise Agreements and leases are not terminated. In addition, Defendants have asked for a declaration

that their use of Plaintiffs' trademarks, trade names and trade dress subsequent to the issues of the notice of termination does not constitute trademark infringement.

B. Case Management Plan

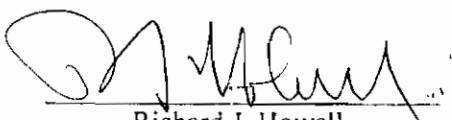
1. Pending motions: none.
2. Deadline for joinder of additional parties: May 31, 2008.
3. Deadline for amendment of pleadings: May 31, 2008.
4. Discovery:
 - a.. Deadline for disclosures under Rule 26(a)(1): April 15, 2008.
 - b. Deadline for completion of fact discovery: October 31, 2008.
 - c. Deadline for disclosures under Rule 26(a)(2): October 31, 2008.
 - d. Deadline for expert reports: December 1, 2008
 - e. Deadline for rebuttal expert reports: December 31, 2008.
 - f. Deadline for completion expert discovery: January 31, 2009.
5. Deadline for dispositive motions: March 2, 2009.
6. Deadline for submission of final pretrial order: August 15, 2009.
7. Trial:
 - a. Neither Plaintiff nor Defendants have requested a trial by jury.
 - b. The parties estimate that the trial will take 6 days to complete.
 - c. The parties estimate that this matter will be ready for trial on September 15, 2009.
8. At this time, the parties do not believe that this case is amenable to being resolved in whole or in part through any alternative dispute resolution procedure.
9. The parties do not consent to a trial by the Magistrate Judge.

A pretrial conference shall be held on November 14, 2008
at 10:00 AM.

SO ORDERED

Dated: New York, New York

7/11/08

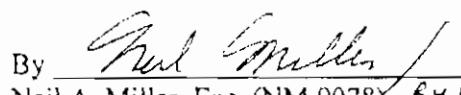

Richard J. Howell
United States District Court Judge

Respectfully submitted,

By 

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